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TO RUEHC/SECSTATE WASHDC 1381  
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RUEHRC/USDA FAS WASHDC 4097  
RUEHKP/AMCONSUL KARACHI 7189  
RUEHLH/AMCONSUL LAHORE 3268  
RUEHPW/AMCONSUL PESHAWAR 1704  
RUEHBI/AMCONSUL MUMBAI 3710

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SIPDIS

STATE FOR SCA/PB, EB/TPP, EB/IFD/OIA, AND EB/IFD/OMA  
USAID FOR ANE MWARD  
TREASURY FOR OSSA  
COMMERCE FOR ANESA/OSA  
MANILA PASS USED AT ADB  
STATE PASS USTR FOR RGERBER, DHARTWICK

SENSITIVE  
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E.O. 12958: N/A  
TAGS: [EFIN](#) [ECON](#) [EINV](#) [ETRD](#) [PREL](#) [PK](#)  
SUBJECT: MINISTRY OF COMMERCE ON BIT, ROZS AND DATA EXCLUSIVITY

11. (U) This is an action request. Please see para 3.

SUMMARY  
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12. (SBU) Econ Counselor met August 27 with Jamshid Khan, Joint Secretary, Ministry of Commerce at his request to discuss next steps

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on the Bilateral Investment Treaty (BIT), GOP concerns regarding the Reconstruction Opportunity Zones (ROZs), and a possible ROZ mission to the U.S. Econ Counselor inquired about the status of the data exclusivity legislation, which is now back at the Ministry of Health after a Ministry of Commerce review for consistency with the WTO Agreement on Trade-related aspects of Intellectual Property Rights (TRIPS). Raheela Tajwar, Deputy Secretary of Commerce, also participated in the meeting.

ROZs  
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13. (SBU) Khan made a pitch for inclusion of the cotton trouser categories (347 and 348) on the ROZ product list. Econ Counselor responded that considerable effort had gone into selecting the categories to maximize the benefit to Pakistan and increase the chances that the U.S. Congress would approve the legislation. Khan remarked that Levi Strauss was particularly interested in locating to a ROZ site to produce cotton trousers, adding that it was very likely that not all goods produced in the ROZs would be destined for the U.S. The Levi Strauss Director of Corporate Affairs is lobbying for inclusion of the 347 and 348 categories, according to Khan. He also questioned why the 338 and 339 categories (cotton knit shirts) were only partially covered. ACTION REQUEST: Post would appreciate information to respond to Khan's question. END ACTION REQUEST.

14. (SBU) Khan also requested that the entire province of Balochistan be included in the legislation. He argued that all of Balochistan has the same economic development needs as the FATA and earthquake-affected zones and also suffers from negative effects of political extremism.

15. (SBU) The Ministry of Commerce, in conjunction with its Hunton and Williams consultants, is starting to organize a delegation to go to Washington to lobby for ROZ passage. Khan commented that replicating the positive impression left by the Karachi Chamber of

Commerce representatives' visit to Congress and U.S. agencies would assist in passage of ROZ legislation. The Ministry is looking for business people from the designed ROZ areas who are interested in investing there and who preferably already have visas, given the lag time between approval and actual visa issuance. Post will work with the Ministry as appropriate and apprise Washington as plans develop.

#### Bilateral Investment Treaty

16. (SBU) The GOP will hold an interagency meeting August 30 to discuss next steps on the BIT. Khan identified five remaining areas where agreement has not been reached and his sense of the degree of flexibility on each side:

- scope and coverage (Article 2). Khan believes neither side has any flexibility here.
- transparency (Articles 11 and 20.6). Khan believes that the U.S. has flexibility here. Board of Investment (BOI) Secretary Mushque Malik told us the same thing last week.
- claims on behalf of an enterprise (Article 24.6). Khan thought the U.S. has some flexibility here, as did Malik.
- investment agreements (Article 24.1). Khan's impression is that neither side has flexibility here.
- arbitration rules. Khan did not comment on the GOP position here, but highlighted that the BOI negotiates on behalf of the GOP. Post will follow up on results of the August 30 meeting.

#### Data Exclusivity

17. (SBU) Economic Counselor recounted her August 25 meeting with the Secretary of the Ministry of Health Dr. Khushnood Akhtar Lashari who said that the data protection amendment had moved from the

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Ministry of Health to the Ministry of Commerce. Raheela Tajwar, Deputy Secretary of Commerce, said that that the Commerce Ministry WTO division had reviewed the legislation for consistency with TRIPS, but that the draft is now back at the Ministry of Health. She did not know if any changes had been made, but highlighted that this legislation would not/not be TRIPS-plus. Both Tajwar and Khan expressed their support for this legislation. Econ Counselor expressed interest in seeing a draft, remarking that many other countries working on data exclusivity had shared drafts with the U.S., but Tajwar and Khan did not take the bait.

18. (SBU) Econ Counselor highlighted the importance of passage of TRIPS-consistent data exclusivity legislation for innovation and the development of life sciences industries in Pakistan as well as the key role progress (or lack thereof) on this issue will play in determining the outcome of Pakistan's out-of-cycle review. Khan suggested writing another letter to the Ministry of Health highlighting our concerns. Comment: During the Ambassador's introductory calls on the Minister of Health and Commerce, they both expressed interest in seeing this legislation passed and seemed to understand the importance of securing National Assembly approval quickly. We will continue to pursue this issue. End comment.

PATTERSON